THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.13507 OF 2006

DATED 07.07.2006

BETWEEN

Duvvuru Ram Prasad Reddy

… Petitioner

and

The District Collector, Nellore, Nellore District and others.

Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.13507 OF 2006

ORDER:

The petitioner is owner of land admeasuring Acs.25 acres in survey Nos.57 to 59 of Polla Kandriga Revenue village, which is situated at Swarnamukhi river in Vakadu Mandal of Nellore District. He alleges that he converted Acs.5.00 of land into prawn culture tanks in 1999 allegedly by adopting technically sound methods of prawn culture. The third respondent herein filed writ petition being W.P.No.10624 of 2006 complaining about the adverse effects of prawn culture carried on by the petitioner. This Court disposed of the writ petition directing revenue authorities not to allow any person to carry on activities of prawn culture or pisi culture or any type of aquaculture without prior permission from the competent authority. Thereafter, the second respondent issued urgent notice bearing No.Rc.B570/05, dated 24.06.2006, directing the petitioner to stop aquaculture in petitioner's lands and obtain prior permission from competent authority before taking up such activity. Aggrieved by this, present writ petition is filed seeking invalidation of the said urgent notice.

Learned counsel for the petitioner contends that the revenue authorities ought to have given notice before directing the petitioner to stop aquaculture in the lands. He also contends that after receiving the said notice, the petitioner approached the District Collector and Mandal Revenue Officer seeking time to harvest the existing prawn, in vain. He pleads that prawn seed let into petitioner's aquaculture tanks would be ripe for harvest in about a month's time and that if petitioner is permitted to harvest, he would not take up prawn culture hereafter.

This writ petition is wholly misconceived. The plea of violation of principles of natural justice raised by the petitioner cannot be accepted. A Division Bench of this Court in **Madiraju Padma Rambabu v District Forest Officer, Kakinada**[1], to which I was a Member, directed the revenue authorities to prohibit pisi culture or prawn culture. It was observed in the said Judgment as under.

> A person who holds land for agricultural purpose may, therefore, subject to any reasonable restriction that may be made by the State may have the right to use water for irrigational purposes and for the said purpose he may also excavate a tank. But under no circumstances, he can be permitted to restrict flow of water to the neighbouring lands or discharge the effluents in such a manner so as to affect the right of his neighbour to use water for his own purposes. On the same analogy he does not have any right to contaminate the water to cause damages to the holders of the neighbouring agricultural fields. Large scale defoulment in the quality of water so as to make it unusable by others or as a result whereof the water is contaminated and becomes unpotable would be violative of Article 21 of the Constitution.

This Court also directed the revenue authorities not to allow any persons to carry on the activities of pisi culture or prawn culture or any type of culture without obtaining prior permission from aquaculture authorities. The question whether the petitioner is carrying on prawn culture employing technically sound methods without polluting surroundings is a question, which cannot be gone into in these proceedings.

It is now well settled that when the revenue authorities, implement the orders of the Court, who are bound to do so, the question of violation of principles of natural justice does not arise. Further, the petitioner has all audacity to carry on the activities, which are prohibited by law and also prohibited by the Judgment of this Court. In such case, discretion cannot be exercised in favour of petitioner.

The writ petition is misconceived and is accordingly dismissed. No costs.

(V.V.S.RAO,J)

.07.2006
pln

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[1] 2002 (1) ALD 728 (DB)